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TORE ANDERSEN

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA – EASTERN DIVISION

TORE ANDERSEN,

Plaintiff

vs.

COUNTY OF RIVERSIDE; PALM
SPRINGS POLICE DEPARTMENT;
RIVERSIDE DEPARTMENT OF
PUBLIC SOCIAL SERVICES,
CHILDREN’S SERVICES DIVISION;
KOUMAY YANG, SHERI BOYD; and
DOES 1 through 10 Inclusive,

Defendants.

Case No.: 5:15-cv-01053

**PLAINTIFF TORE ANDERSEN’S
COMPLAINT**

1. Violation of Civil Rights Under 42 U.S.C. 1983, 14th Amendment – Initial and Continued Detention Against Defendants COR/CSD, KOUMAY, and SHERI
2. Violation of Civil Rights Under 42 U.S.C. 1983 14th Amendment – Initial and Continued Detention Against Defendant COR/PSPD
3. 1st Amendment – Interference with Familial Relations - Against Defendants COR/CSD, KOUMAY, and SHERI
4. 5th and 14th Amendment – Violation of Procedural and Substantive Due Process - Against Defendant COR/PSPD
5. 5th and 14th Amendment – Violation of Procedural and Substantive Due Process - Against Defendants COR/CSD, KOUMAY, and SHERI

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6. Violation of Civil Rights Under 42 U.S.C. 21 - Gender Discrimination - Against Defendant COR/PSPD
7. Violation of Civil Rights Under 42 U.S.C. 21 - Gender Discrimination - Against Defendants COR/CSD, KOUMAY, and SHERI
8. Violation of Civil Rights Under 42 U.S.C. 1983- Monell Claim - Against Defendant COR/CSD

DEMAND FOR JURY TRIAL

COMES NOW Plaintiff TORE ANDERSEN hereby alleges as follows:

I. PREFATORY, JURISDICTION AND VENUE

1. This is an action for damages for violations of Plaintiff's federal civil rights, pursuant to 42 U.S.C. § 1983 including violations of the 1st, 4th, and 14th Amendments of the United States Constitution and the Civil Rights Act of 1991 and 1964, as amended, 42 U.S.C. § 2000e-3; 42 U.S.C. § 2000e-16 *et. seq.*

2. Jurisdiction is conferred upon this Court by 28 U.S.C. §§ 1343 (3) and 1343 (4), which provides for original jurisdiction in this Court of all suits brought pursuant to 42 U.S.C. § 1983. Jurisdiction is also conferred by 28 U.S.C. § 1331(a) because claims for relief derive from the United States Constitution and the laws of the United States.

3. Venue is proper in this Court because, upon information and belief, one or more of the named Defendants reside, transact business, or have offices in this county and many of the acts and omissions alleged herein took place in Riverside County.

II. PARTIES

5. At all relevant times herein, Plaintiff TORE ANDERSEN was and is an adult and resident of the County of Riverside, State of California.

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6. Defendant COUNTY OF RIVERSIDE ("COR") is a duly enacted municipality operating under California state law, of which (1) Defendant DEPARTMENT OF PUBLIC SOCIAL SERVICES, CHILDREN'S SERVICES DIVISION, ("COR/CSD") and (2) Defendant PALM SPRINGS POLICE DEPARTMENT (collectively hereafter, "COR/PSPD") are operating Departments, Agencies and/or Offices of COR.

7. Defendant COR/CSD is a public Child Protective Service agency of COR that is designated to administer laws and programs relating to protective services for children, foster care, and adoptions. COR/CSD operates under the policy direction of the Riverside County Board of Supervisors and the California Departments of Social Services and Health Services.

8. At all relevant times, Defendant KOUMAY YANG ("Koumay") was an officer, agent, and/or an employee of COR/CSD, specifically as a Child Services Worker charged with servicing juvenile dependency cases. Koumay is sued in both her individual and official capacities.

9. At all relevant times, Defendant SHERI BOYD ("Sheri") was an officer, agent, and/or an employee of COR/CSD, specifically as a Child Services Worker charged with servicing juvenile dependency cases. Sheri is sued in both her individual and official capacities.

10. Defendants, Does 1- 10, and others not presently known to Plaintiff, were at all times material to this complaint, duly employees of COR/CSD. At all times material to this complaint, these Defendants acted towards Plaintiff under color of statutes, ordinances, custom and usage of the State of California and County of Riverside.

11. Defendant COR/PSPD is a local public entity, situated in the County of Riverside, City of Palm Springs, and organized under the laws of the State of California, and County of Riverside. Plaintiff is informed and believes that at all times relevant hereto, Palm Springs Police Department is responsible for the acts of its employees committed during the course and scope of their employment pursuant to Government Code § 815.2.

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1 12. Police Officers Doe Defendants 1-10, and others not presently known to
2 the Plaintiff, were at all times material to this Complaint, duly appointed police
3 officers of the City of Palm Springs. At all times material to this Complaint, these
4 Defendants Palm Springs Police Department and Doe Defendants 1-10 acted towards
5 Plaintiff under color of statutes, ordinances, custom, and usage of the State of
6 California, City of Palm Springs, and the Palm Springs Police Department.

7 13. Plaintiff is informed and believes and therefore alleges that at all times
8 relevant thereto, Defendant police officers are responsible for the acts committed
9 individually and personally during the course and scope of their employment pursuant
10 to Government Code § 815.2.

11 14. As the employer of police officers, social workers, investigators and their
12 supervisors, COR/PSPD and COR/CSD have the primary responsibility for the training,
13 discipline, and supervision of such employees, including supervisors of such employees, and
14 Plaintiff is informed and believes and thereon alleges that it was COR/PSPD and COR/CSD
15 which promulgated, encouraged, administered, and/or permitted the policies, practices, customs
16 and procedures under which the individual Defendant employees of COR/PSPD and COR/CSD
17 committed the acts or omissions complained of herein.

18 15. Plaintiff is informed and believes and alleges thereon that except as otherwise
19 alleged herein, each of the Defendants employed by COR/PSPD and COR/CSD are and, at all
20 relevant times, were the agents, employers, alter egos and/or co-conspirators of each of the other
21 COR/PSPD and COR/CSD employee Defendants named herein and, in doing the things alleged
22 herein, were acting within the course and scope of such positions at the direction of and/or with
23 the permission, knowledge, consent and/or ratification of each of the other Defendants. Among
24 other things, Plaintiff is informed and believes and alleges thereon that Defendants conspired with
25 and aided and abetted each other in the events herein described.

26 16. Defendants individually and collectively did knowingly and willingly, conspire
27 with each other to deprive Plaintiff of his federal rights, liberties, and interests.
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1 17. Plaintiff sues all individual Defendants in both their official and
2 individual capacities.

3 18. Defendants Koumay, Sheri, and Defendants Does 1-10 employed by COR/PSPD
4 and COR/CSD are individuals who were acting under color of law in conducting an investigation
5 pursuant to California law, including as to proceedings described in Government Code §
6 820.21(a) and mandatory duties under the California Welfare and Institutions Code, including: §
7 290.1; § 300; § 305; § 306; § 307 ; §307.4; § 308; § 309; § 311; § 319; § 332 and § 827.

8 19. These statutes embody federal due process including requirements for dependency
9 cases and federal constitutional rights under the 1st, 4th, and 14th Amendments.

10 **III. COMMON ALLEGATIONS**

11 20. At all times relevant hereto, Plaintiff TORE ANDERSEN and Maria Moreno
12 (“Maria”) have been married since July 11, 2011. However, Plaintiff and Maria are in the
13 process of divorcing.

14 21. Since at least 2013, Maria suffers from and had been diagnosed with "Adjustment
15 Disorder with Depressed mood". Plaintiff also believes that her disorder is a factor in causing
16 Maria to engage in violent outbursts. Plaintiff knew about Maria’s disorder and did everything he
17 could to love and accommodate for her during and throughout their marriage.

18 22. Plaintiff and Maria share a daughter named Mileena Andersen (“Mileena”), who
19 was approximately two (2) years old at all times relevant hereto. Maria has a son from a previous
20 marriage, Damion Vasquez (“Damion”), who was approximately fifteen (15) years old at all
21 times relevant hereto.

22 23. On May 28, 2013, Plaintiff and Maria got into a heated argument in the kitchen of
23 their home in Palm Springs, California in which Maria became outraged and instigated a physical
24 altercation by striking Plaintiff with fists, slaps, kicks, and objects from the home. Plaintiff fought
25 Maria back in self-defense. Their altercation came to a point in which Maria picked up a
26 barstool, and swung said barstool in Plaintiff’s direction in a dangerous manner with the intent to
27 cause Plaintiff physical harm and pain. However, Maria was swinging the barstool dangerously
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1 close to their daughter, Mileena, who was eighteen (18) months old at the time and sitting in her
2 highchair eating spaghetti. In order to protect their daughter, Plaintiff grabbed the barstool away
3 from Maria's hands and pushed her to the ground, keeping Mileena away from danger. Maria
4 then got up, continued to throw punches and kicks at Plaintiff, and simultaneously called her son,
5 Damion, who was in his room at the start of the altercation, to come and help her attack Plaintiff.
6 Damion exited his room and joined the altercation between Maria and Plaintiff by punching
7 Plaintiff repeatedly in the face. Plaintiff did not fight back against Damion. Plaintiff was
8 eventually able to hold both Maria and Damion back until all parties began to cool down. When
9 the fight stopped, Plaintiff checked on Mileena, who had spaghetti spilled all over herself, and
10 took Mileena for a bath. Approximately ten (10) minutes later, police officers of the Defendant
11 COR/PSPD arrived at their house.

12 24. The police interviewed Maria, Damion, and Plaintiff individually, and each party
13 told their version of the altercation. Transcripts and the police's voice recordings of the
14 interviews all reveal that each party gave differing stories. Maria conveyed to the police that that
15 Plaintiff had thrown her to the ground for no reason, stomped on her face, and continued to hit
16 her. Damion told the police that Plaintiff was holding Maria when he came out of his room, and
17 that Plaintiff then hit him. Damion also told the police that he had taken Mileena to his room
18 after the altercation. Transcripts of Maria's statement and Damion's oral statements did not
19 match up.

20 25. Meanwhile, Plaintiff correctly reported to the police that Maria had instigated the
21 fight, admitted that he did hit Maria back in self-defense, and that he did not hit Damion back
22 despite being pummeled with punches by him.

23 26. At the end of the interviews, the police arrested and detained Plaintiff. The police
24 sent Plaintiff to jail on two counts: (1) Penal Code 273.5, Infliction of Corporal Injury on a
25 Spouse/Cohabitant, and (2) Penal Code 273a(b), Cruelty to Child by Inflicting Injury.

26 27. The police then prepared a police report, which was shockingly and
27 overwhelmingly more aligned with Maria's testimony than Plaintiff's. The police did not
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1 provide an accurate police report of the altercation, left about half of Plaintiff's statements out of
2 the report, and went so far as to fabricate facts into their report that did not comport with what the
3 parties told them in order to justify their arrest of Plaintiff. For example, the police actively
4 omitted crucial pieces of testimony from their report, such as the fact that Maria picked up the
5 barstool in an effort to cause physical harm upon Plaintiff.

6 28. It became clear to Plaintiff that the police were not acting objectively and chose to
7 side with Maria and her son, Damion, to Plaintiff's detriment. It is Plaintiff's belief that the police
8 gave greater deference to Maria over Plaintiff because of Plaintiff's gender (male) as opposed to
9 Maria's (female).

10 29. On May 29, 2013, Palm Springs Police Department contacted COR/CSD.
11 COR/CSD worker, Defendant Koumay Yang, was assigned to the case. Koumay contacted
12 Maria and informed her that they would take Mileena and Damion away unless she filed a
13 restraining order against Plaintiff.

14 30. On May 30, 2013, by Koumay's warning and instruction, Maria went to court in
15 Indio to file a restraining order, using a fabricated story about the May 28, 2013 altercation, which
16 interestingly did not match up with the statement she gave the police on May 28, 2013.

17 31. The court granted Maria the restraining order, but Maria never served the
18 restraining order on Plaintiff. However, Maria gave Koumay a copy of the restraining order.
19 Koumay then advised Maria to stay away from Plaintiff lest she wanted COR/CSD to take
20 Damion and Mileena away from her.

21 32. Thereafter, Maria informed Koumay twice that the May 28, 2013 altercation did
22 not happened the way she described it happened in her restraining order statement. Nevertheless,
23 despite Maria's admission of fabricating statements in order to harm Plaintiff, Koumay refused to
24 change course or allow Plaintiff access to his daughter, Mileena.

25 33. More shockingly, Koumay advised Maria to stick with her story in her restraining
26 order, even if it was not the truth, because she would be prosecuted for perjury.

27 34. Maria stayed with her mother and sister and not in the home she shared with
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1 Plaintiff, out of fear that continuing to stay at her shared home would make it more likely that
 2 COR/CSD would take her children.

3 35. On May 31, 2013, Plaintiff was released from jail as no charges were filed against
 4 him. In all, Plaintiff was detained from Tuesday, May 28, 2013 to Friday, May 31, 2013, more
 5 than forty-eight (48) hours without cause. This was done in violation of County of Riverside v.
 6 McLaughlin, 500 U.S. 44 (1991), in which individuals arrested without a warrant, such a Plaintiff
 7 in this case, must know the probable cause for their arrest from law enforcement officials within
 8 48 hours.

9 36. On that same day, May 31, 2013, Maria went back to Indio court where she was
 10 informed that she could return home with the kids.

11 37. On June 20, 2013, Maria returned home.

12 38. On June 27, 2013, Plaintiff and Maria were served a notice to appear in court on
 13 July 2, 2013 regarding a hearing to terminate parental rights.

14 39. On July 1, 2013, Koumay filed a Detention Report in preparation for the July 2,
 15 2013 hearing. In that Detention Report, among many things, Koumay specifically singled out
 16 Plaintiff and stated that there were “no reasonable means by which (Mileena’s) physical health
 17 may be protected without removing the child...from the physical custody of the parent, (Plaintiff)
 18 Tore Andersen.” The Detention Report stated that the May 28, 2013 altercation between Maria
 19 and Plaintiff started when Plaintiff “threw the mother to the ground”, which was not true. The
 20 Detention Report also requested that Damion and Mileena remain with Maria and that “a
 21 Temporary Restraining Order be made protecting the mother, (Maria), and the children, (Damion
 22 and Mileena), from (Plaintiff).”

23 40. On July 2, 2013, Plaintiff and Maria went to court. At the hearing, Koumay lied to
 24 the court, stating that Maria had been staying at their shared home since the altercation on May
 25 28, 2013. Koumay also misinformed the court that Plaintiff had a long history of violence,
 26 though his criminal history and records were spotless. Koumay represented that Damion was
 27 scared of Plaintiff and perplexingly testified that Plaintiff had neglected Mileena’s basic need for
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1 food and a home, despite the fact that Plaintiff had always provided his family with a home and
2 with more than basic necessities to live off of. Koumay also represented that Plaintiff was a
3 severe physical danger to both Mileena and Damion, and that Plaintiff had punched Damion and
4 strangled Maria, which were simply more lies. In the end, Commissioner Lawrence P. Best
5 presiding ordered that COR/CSD immediately remove Mileena from both Maria's and Plaintiff's
6 custody. Mileena was removed that same day.

7 41. On July 13, 2013, Koumay filed a case plan detailing the parents' path to regaining
8 custody of their children, which was approved by the court.

9 42. Around mid-August 2013, Defendant Sheri Boyd was assigned to the case because
10 Koumay went on maternity leave. From then on, Koumay was no longer working on the case to
11 Plaintiff's knowledge.

12 43. Within a month, on September 20, 2013, Plaintiff lodged a written complaint to
13 Sandi Bullen ("Sandi"), a COR/CSD Supervisor, against Sheri's handling of his case. Plaintiff
14 complained that Sheri was non-cooperative with him and failed to take phone calls or return
15 voice messages. In the times that Plaintiff was able to speak to Sheri, Sheri would be
16 unnecessarily rude and threatening to Plaintiff by continually threatening to take his children
17 away or shut down communication with him. Sheri also failed to timely prepare a referral phone
18 call for Plaintiff and Maria to conduct joint counseling, despite court orders for "immediate
19 referrals for conjoint counseling for parents". By that time, Plaintiff and Maria completed all their
20 classes and requirements before getting Mileena back, save for the conjoint counseling session,
21 which was their last requirement and in which Plaintiff and Maria were waiting to Sheri to
22 handle. Sheri also admitted that she had not even read through his case a month after being
23 assigned to it. Sandi then spoke to Plaintiff shortly after receiving his written complaint, and then
24 had Sheri finally make the referral for conjoint counseling.

25 44. On September 28, 2013, Plaintiff had to file another written complaint to Sandi for
26 Sheri's lack of attention to his case. Specifically, Plaintiff and Maria had still not received any
27 information about the unsupervised overnight and weekend visits they would be entitled to,
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1 which the court authorized in August 2013. Sheri promised to visit their home but failed to
2 follow through. Sheri had not contacted any of the workers from the classes that he and Maria
3 were taking in accordance with the case plan. Plaintiff also had his individual counsel reach out
4 to Sheri, after several calls and unanswered voice messages, but Sheri continued to fail to show
5 any reasonable effort or interest in what Plaintiff's individual counselor had to say. Plaintiff then
6 asked that Sheri be removed from their case and be assigned another social worker instead.

7 45. On October 9, 2013, Plaintiff filed another written complaint to a different
8 COR/CSD supervisor after Sandi suddenly stopped responding to Plaintiff, including four (4)
9 voice messages and a faxed letter were not responded to. Plaintiff complained that he and Maria
10 should have already gotten unsupervised visits with Mileena up to a month ago, as they have
11 been following the case plan to the letter and taken all classes as soon as they became available.
12 Plaintiff and Maria's individual counselors have both sent Sheri evaluation letters, but Sheri
13 continually failed to respond. Sheri was supposed to have completed their evaluation more than a
14 month ago. Sheri also does not answer calls from Mileena's grandmother, who had the right to
15 see Mileena once a month, and who left Sheri multiple voice messages asking to visit her
16 granddaughter that were never returned. Plaintiff reiterated his request that Sheri be taken off the
17 case and the matter reassigned to a different, but competent, social worker.

18 46. Finally, on January 21, 2014, Plaintiff and Maria were given custody of Mileena.

19 47. However, on February 19, 2014, COR/CSD and Sheri requested that their case
20 remain open for another six (6) months, which the court granted.

21 48. Things were going well until July 8, 2014, in which another altercation erupted
22 between Maria and Plaintiff in their kitchen home. Maria was displeased with how Plaintiff was
23 feeding Mileena and began screaming profanities at Plaintiff and pushing him. When Plaintiff
24 ignored Maria's attempts to instigate another fight, and refused to engage or confront her,
25 especially with the May 28, 2013 altercation and aftermath firmly ingrained in his mind, Maria
26 became more enraged. Maria then went to the stove, took a boiling pot of spaghetti pasta, and
27 swung it in Plaintiff's direction, yelling "Look what you did, you fucker!" Maria then began
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1 punching Plaintiff repeatedly. Plaintiff held up his arm in defense and did not hit Maria back.
2 Maria seemed to be angrier the more Plaintiff refused to fight back, and began kicking him in
3 addition to punching him. Plaintiff kept pushing Maria away with the palms of his hands in an
4 effort to keep her at a distance, until Maria bit Plaintiff's hand. Plaintiff then attempted to hold
5 Maria down so that she could stop hurting him. It became apparent to Plaintiff that Maria had no
6 intention of stopping her onslaught, so Plaintiff let Maria go, ran to get Mileena from Maria's
7 way, took Mileena to the bedroom, and locked the door behind him. Maria then laughed at and
8 threatened Plaintiff through the door, saying things like Plaintiff "got something coming" to him.
9 Plaintiff attempted to play house with Mileena to try to distract Mileena from Maria's screaming
10 and from what just occurred, but Mileena was saying things such as "Mommy hit" and "hit pow
11 pow bad."

12 49. On July 11, 2014, to Plaintiff's shock and surprise, COR/PSPD served Plaintiff
13 with a temporary restraining order and informed him that he only had five (5) minutes to get out
14 of his house, which Plaintiff complied. Once again, Maria fabricated stories in order to get
15 Plaintiff into trouble.

16 50. On July 31, 2014, Plaintiff and Maria attended the hearing regarding Maria's latest
17 temporary restraining order. Plaintiff presented photos of his bite marks, bruises, and injuries to
18 the court, proving Maria's statements to be false. Maria tried lying to the court by saying
19 Plaintiff's pictures were from the May 28, 2013 altercation. The court did not believe Maria, as
20 the pictures of Plaintiff's injuries from the May 28, 2013, presented to the court, were clearly not
21 the same as the ones he had just presented. Maria then rehashed her previous false story from
22 May 28, 2013 and tried to apply that to the July 8, 2014 incident, despite the fact that she already
23 admitted that story to be false in the past. In the end, the court granted both Plaintiff and Maria
24 restraining orders against each other. The court did not grant Maria's request that Plaintiff be
25 restrained from Mileena and for spousal and child support. Plaintiff's restraining order against
26 Maria expires on July 30, 2019 and includes a one hundred (100) yard stay away order.

27 51. On August 1, 2014, Plaintiff filed for divorce against Maria.
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1 52. On or about August 2, 2014, Plaintiff received a voicemail from Sheri, informing
2 him to show up in court on August 18, 2014.

3 53. On August 5, 2014, Plaintiff went to the COR/CSD office and personally handed
4 Sheri all of the pictures of his injuries from the July 8, 2014 incident, a recording of Maria
5 slamming a door at Mileena's face, Plaintiff's restraining order granted against Maria, and three
6 (3) witness statements from friends and neighbors attesting to Plaintiff's innocence and Maria's
7 transgressions.

8 54. On August 18, 2014, Sheri appeared before the court and recommended full
9 physical custody of Mileena, and clearly disregarded all of the evidence Plaintiff provided to her.
10 Sheri also misinformed the court that Maria's restraining order against Plaintiff included that
11 Plaintiff was to stay away from Mileena.

12 55. Sheri withheld most, if not all, of the evidence against Maria. Sheri never
13 mentioned the fact that Plaintiff also was granted a restraining order against Maria. In all, Sheri
14 believed and supported Maria without any fair or objective consideration for Plaintiff whatsoever.

15 56. On September 4, 2014, Plaintiff personally delivered a written complaint against
16 Sheri to Sheri's supervisors, his fourth (4th) such written complaint to date. Plaintiff reiterated his
17 request to be reassigned a different, competent social worker. Plaintiff complained how Sheri
18 suppressed all of the evidence he presented to her from the court on August 18, 2014, including
19 the restraining order he was granted against Maria. Plaintiff continued by citing the numerous
20 times that Sheri failed to communicate with him, the fact that Sheri only interviewed Maria as to
21 the household finances, and claimed that Plaintiff failed to benefit from the classes despite the fact
22 that Plaintiff had only been receiving positive feedback from class facilitators. Plaintiff
23 complained about an incident in which Plaintiff shared with Sheri evidence of Maria yelling,
24 cursing, making racist remarks, and slamming a door in Mileena's face, to which Sheri simply
25 asked: "Is it a habit for you to record your wife?" Plaintiff also cited his belief that Sheri
26 discriminated against him because of his gender as a male in favor of Maria, who is a female. In
27 sum, Plaintiff wrote: "To this day, Miss Boyd still refuses to include the evidence against the
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1 mother in her report. She keeps making up fabrications against me instead, to make a false
2 impression of me, as a perpetrator, and the mother as a victim. Clearly reality is the other way
3 around, but Miss Boyd does not concern herself with truth or evidence.” Plaintiff’s letter
4 concluded with plea to have COR/CSD do something about this, stating “my daughter is now
5 suffering because of (Sheri’s) incompetence.” Plaintiff’s complaints would later prove to have
6 fallen on deaf ears once again.

7 57. On September 18, 2014, Sheri once again reiterated her unfair recommendations to
8 have Maria be given full custody, which the court granted. Sheri went on to add fabrications to
9 the report, claiming, for example, that Plaintiff had been seen waiting in his car outside the
10 couple’s former apartment in Palm Springs and putting mail in Maria’s mailbox, despite the fact
11 that Plaintiff had been living and working in San Diego at the time alleged.

12 58. Nevertheless, this last hearing closed COR/CSD’s case with Plaintiff and his
13 family, and Mileena was released to Maria shortly thereafter.

14 59. On September 19, 2014, Plaintiff and Maria attended a court hearing in which both
15 he and Maria were equally recommended, but not required, to take a fifty-two (52) week
16 domestic violence class. Plaintiff signed up but Maria testified that she did not have the money or
17 means to take the class, which further discredits Sheri’s recommendation that Maria was an able
18 financial provider for Mileena and that Plaintiff was not.

19 60. Since COR/CSD closed the case on September 19, 2014, Mileena has been living
20 with Maria. Maria had full physical custody of Mileena.

21 61. On October 27, 2014, Plaintiff and Maria participated in mediation in which the
22 court ratified an agreement to grant Plaintiff and Maria joint physical and legal custody of
23 Mileena. Plaintiff and Maria have been sharing time equally with Mileena since then.

24 62. As a result of Defendants’ conduct, Plaintiff suffered severe emotional distress,
25 anxiety and general damage to his psyche, to such an extent as to cause physical manifestations
26 of pain, and suffered symptoms of headaches, an inability to focus, and feelings of severe
27 frustration and anger. The incident also caused humiliation and embarrassment and loss of
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1 reputation in the community to Plaintiff, and is likely to cause the incursion of therapy and/or
 2 counseling fees in the future as well as expenses related thereto.

3 63. The individual and municipal Defendants' wrongful conduct as herein alleged was
 4 intentionally done with malice and with conscious disregard for the rights of Plaintiff. As a result
 5 of their despicable conduct, Plaintiff is therefore entitled to recover punitive damages from the
 6 individual Defendants' wrongful acts for the purposes of punishing said Defendants.

7 **FIRST CAUSE OF ACTION**

8 *Violation of Civil Rights Under 42 U.S.C. 1983*

9 *14th Amendment – Initial and Continued Detention*

10 *Against Defendants COR/CSD, KOUMAY, and SHERI*

11 64. Plaintiff re-alleges, adopts, and incorporates the preceding paragraphs as if fully set
 12 forth herein.
 13

14 65. COR/CSD and individual employees, KOUMAY and SHERI, violated Plaintiff's
 15 right to familial association under the 1st Amendment of the United States Constitution, with
 16 regard to the warrantless removal of Mileena from the care, custody, and control of her father,
 17 Plaintiff.

18 66. Plaintiff re-alleges the removal and continued detention of Mileena from Plaintiff's
 19 case, custody, and control was undertaken without consent, probable cause, a protective custody
 20 warrant, or exigent circumstances justifying removal and continual detention and without having
 21 performed a reasonable investigation or seeking less intrusive means.

22 67. Plaintiff re-alleges that Defendants COR/CSD, KOUMAY, and SHERI
 23 continually, repeatedly, and unfairly refused to conduct a competent, fair, and objective
 24 investigation and evaluation of Plaintiff's fitness to retain custody of Mileena.

25 68. Plaintiff contends that these Defendants took these actions, acting under color of
 26 law without reasonable probable cause and with deliberate indifference to Plaintiff's constitutional
 27 rights.
 28

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69. The individual and municipal Defendants' wrongful conduct as herein alleged was intentionally done with malice and with conscious disregard for the rights of Plaintiff. As a result of their despicable conduct, Plaintiff is therefore entitled to recover punitive damages from the individual Defendants' wrongful acts for the purposes of punishing said Defendants.

SECOND CAUSE OF ACTION

Violation of Civil Rights Under 42 U.S.C. 1983

14th Amendment – Initial and Continued Detention

Against Defendant COR/PSPD

70. Plaintiff re-alleges, adopts, and incorporates the preceding paragraphs as if fully set forth herein.

71. On May 28, 2013, police officers working for Defendant COR/PSPD arrested and detained Plaintiff under the threat of loss of life or injury while being armed with weapons.

72. Plaintiff was actually harmed in that Defendant held Plaintiff in county jail without cause between Tuesday, May 28, 2013 to Friday, May 31, 2013, which was more than 48 hours.

73. Defendant's conduct was the cause of Plaintiff's harm.

74. Plaintiff contends that Defendant took these actions, acting under color of law without reasonable probable cause and with deliberate indifference to Plaintiff's constitutional rights.

75. The individual and municipal Defendants' wrongful conduct as herein alleged was intentionally done with malice and with conscious disregard for the rights of Plaintiff. As a result of their despicable conduct, Plaintiff is therefore entitled to recover punitive damages from the individual Defendants' wrongful acts for the purposes of punishing said Defendants.

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THIRD CAUSE OF ACTION***1st Amendment – Interference with Familial Relations******Against Defendants COR/CSD, KOUMAY, and SHERI***

76. Plaintiff re-alleges, adopts, and incorporates the preceding paragraphs as if fully set forth herein.

77. Plaintiff asserts a claim for a violation of Plaintiff's rights under the 14th Amendment to the United States Constitution, against Defendants COR/CSD, KOUMAY, and SHERI, for the removal and continued detention of Mileena in violation of Plaintiff's 14th Amendment rights of familial association.

78. This claim for continued detention is for the period from Mileena's removal from Plaintiff's care, control, and custody on July 2, 2013 to October 27, 2014 when joint physical and legal custody were granted to Plaintiff and Maria. This claim for continued detention is premised on the repeated use of false evidence, failure to properly investigate, misrepresentations, failure to provide an opportunity to present the matter before, and the exclusion of exculpatory evidence to the juvenile dependency court, which Plaintiff contends and alleges was used as the means of accomplishing the continued detention of Mileena apart from Plaintiff.

79. These Defendants took these actions, acting under color of law without reasonable probable cause and with deliberate indifference to Plaintiff's constitutional rights.

80. Defendants did not at any time reasonably consider, implement, or attempt, any aspect of the "reasonable efforts" required by California law, requirements under federal law and/or regulations regarding social work in the area of child protection after removal from a parent or guardian and this conduct is also a result of the deliberate indifference to the rights and safety of parents and children evidenced by the failure to train, or failure to train adequately, those employees such as the employee defendants herein of COR/CSD.

81. Such laws and regulations include, inter alia, California Welf Inst. Code §§ 305, 306, and 309, Title 31 Regulations 31.25, 31.125.221 and 31.125.222, federal law as established by the 9th Circuit and United States Supreme Court, that require a social worker do a reasonable

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1 and diligent investigation and make reasonable efforts and consider reasonable alternatives to not
 2 remove and instead continue a child in the home of his/her parent(s) as the least damaging
 3 alternative to social services intervention of any kind by, inter alia, COR/CSD. No such
 4 reasonable efforts were made in this matter.

5 82. The individual Defendants fabricated evidence, failed to properly investigate,
 6 signed reports and other documents under the penalty of perjury, and/or otherwise interfered with
 7 the due process rights of Plaintiff in violation of the 5th and 14th Amendments to the United States
 8 Constitution and deliberately and maliciously interfered with the Plaintiff's rights to Familial
 9 Association.

10 83. Defendants conspired to interfere with and violate the civil rights of the Plaintiff, as
 11 set forth under 42 U.S.C. § 1983, including violations of the Plaintiff's rights found in the 14th
 12 Amendment of the United States Constitution, by, inter alia, acting and conspiring to force
 13 Plaintiff to relent to their demands, by retaliating against Plaintiff for exercising his freedom of
 14 speech in protesting Defendants' unlawful activities as indicated herein, and by removing,
 15 detaining and continuing to detain, the person and/or physical and legal custody of Mileena from
 16 the care, custody, and control of her father, Plaintiff, without proper or just cause and/or authority;
 17 without court order, by the use of intimidation, coercion and duress and by using false and
 18 fabricated evidence and testimony and failing to provide exculpatory evidence, during the
 19 investigation and initiation and pendency of the dependency in violation of and interference with
 20 Government Code §820.21 and the Plaintiff's constitutional liberty interests under the 1st
 21 Amendment, his fundamental rights to familial association, and due process under the 14th
 22 Amendment and in violation of 4th Amendment rights against unreasonable searches and
 23 seizures.

24 84. Plaintiff contends that these Defendants took these actions, acting under color of
 25 law without reasonable probable cause and with deliberate indifference to Plaintiff's constitutional
 26 rights.

27 ///

85. The individual and municipal Defendants' wrongful conduct as herein alleged was intentionally done with malice and with conscious disregard for the rights of Plaintiff. As a result of their despicable conduct, Plaintiff is therefore entitled to recover punitive damages from the individual Defendants' wrongful acts for the purposes of punishing said Defendants.

FOURTH CAUSE OF ACTION

5th and 14th Amendment – Violation of Procedural and Substantive Due Process

Against Defendant COR/PSPD

86. Plaintiff re-alleges, adopts, and incorporates the preceding paragraphs as if fully set forth herein.

87. On May 28, 2013, COR/PSPD prepared a police report, which was shockingly and overwhelmingly more aligned with Maria's testimony than Plaintiff's. The police did not provide an accurate police report of the altercation, left about half of Plaintiff's statements out of the report, and went so far as to fabricate facts into their report that did not comport with what the parties told them in order to justify their arrest of Plaintiff. For example, the police actively omitted crucial pieces of testimony from their report, such as the fact that Maria picked up the barstool in an effort to cause physical harm upon Plaintiff.

88. It became clear to Plaintiff that the police were not acting objectively and chose to side with Maria and her son, Damion, to Plaintiff's detriment.

89. COR/PSPD then arrested Plaintiff and detained him in county jail from May 28, 2013 to May 31, 2013 without cause.

90. Defendant's actions caused a snowball effect in which, in cooperation with COR/CSD, Plaintiff was deprived of the opportunity to properly fight for custody of his daughter, Mileena from May 28, 2013 to October 27, 2014.

91. As a result of Defendant's actions, Plaintiff was never given a fair opportunity to retain and maintain custody of his daughter, Mileena. Defendant's actions deprived Plaintiff of his due process rights under the 5th and 14th Amendments and in violation of 4th Amendment rights against unreasonable searches and seizures.

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92. Plaintiff contends that these Defendants took these actions, acting under color of law without reasonable probable cause and with deliberate indifference to Plaintiff's constitutional rights.

93. The individual and municipal Defendants' wrongful conduct as herein alleged was intentionally done with malice and with conscious disregard for the rights of Plaintiff. As a result of their despicable conduct, Plaintiff is therefore entitled to recover punitive damages from the individual Defendants' wrongful acts for the purposes of punishing said Defendants.

FIFTH CAUSE OF ACTION

5th and 14th Amendment – Violation of Procedural and Substantive Due Process

Against Defendants COR/CSD, KOUMAY, and SHERI

94. Plaintiff re-alleges, adopts, and incorporates the preceding paragraphs as if fully set forth herein.

95. Defendants COR/CSD, KOUMAY, and SHERI continually, repeatedly, and unfairly refused to conduct a competent, fair, and objective investigation and evaluation of Plaintiff's fitness to retain custody of Mileena. Each Defendant was responsible for failing to give Plaintiff's testimony and evidence proper weight in considering his ability to care for his daughter. In multiple instances described in this Complaint, these Defendants simply failed to communicate with or cooperate with Plaintiff.

96. As a result of these Defendants' actions, Plaintiff was never given a fair opportunity to retain and maintain custody of his daughter, Mileena. These Defendants' actions deprived Plaintiff of his due process rights under the 5th and 14th Amendments and in violation of 4th Amendment rights against unreasonable searches and seizures.

97. Plaintiff contends that these Defendants took these actions, acting under color of law without reasonable probable cause and with deliberate indifference to Plaintiff's constitutional rights.

98. The individual and municipal Defendants' wrongful conduct as herein alleged was intentionally done with malice and with conscious disregard for the rights of Plaintiff. As a result

1 of their despicable conduct, Plaintiff is therefore entitled to recover punitive damages from the
 2 individual Defendants' wrongful acts for the purposes of punishing said Defendants.

3 **SIXTH CAUSE OF ACTION**

4 ***Violation of Civil Rights Under 42 U.S.C. 21 - Gender Discrimination***

5 ***Against Defendant COR/PSPD***

6 99. Plaintiff re-alleges, adopts, and incorporates the preceding paragraphs as
 7 if fully set forth herein.

8 100. On May 28, 2013, COR/PSPD prepared a police report, which was shockingly and
 9 overwhelmingly more aligned with Maria's testimony than Plaintiff's. The police did not
 10 provide an accurate police report of the altercation, left about half of Plaintiff's statements out of
 11 the report, and went so far as to fabricate facts into their report that did not comport with what the
 12 parties told them in order to justify their arrest of Plaintiff. For example, the police actively
 13 omitted crucial pieces of testimony from their report, such as the fact that Maria picked up the
 14 barstool in an effort to cause physical harm upon Plaintiff.

15 101. It became clear to Plaintiff that the police were not acting objectively and chose to
 16 side with Maria and her son, Damion, to Plaintiff's detriment.

17 102. COR/PSPD then arrested Plaintiff and detained him in county jail from May 28,
 18 2013 to May 31, 2013 without cause.

19 103. Defendant's actions caused a snowball effect in which, in cooperation with COR/CSD,
 20 Plaintiff was deprived of the opportunity to properly fight for custody of his daughter, Mileena
 21 from May 28, 2013 to October 27, 2014.

22 104. It is Plaintiff's belief that the police gave greater deference to Maria over Plaintiff
 23 because of Plaintiff's gender (male) as opposed to Maria's (female). As a result of this
 24 discrimination, Defendant's actions deprived Plaintiff of his due process rights under the 5th and
 25 14th Amendments and in violation of 4th Amendment rights against unreasonable searches and
 26 seizures.
 27
 28

1 105. Plaintiff contends that these Defendants took these actions, acting under color of
2 law without reasonable probable cause and with deliberate indifference to Plaintiff's
3 constitutional rights.

4 106. The individual and municipal Defendants' wrongful conduct as herein
5 alleged was intentionally done with malice and with conscious disregard for the rights
6 of Plaintiff. As a result of their despicable conduct, Plaintiff is therefore entitled to
7 recover punitive damages from the individual Defendants' wrongful acts for the
8 purposes of punishing said Defendants.

9 SEVENTH CAUSE OF ACTION

10 *Violation of Civil Rights Under 42 U.S.C. 21 - Gender Discrimination*

11 *Against Defendants COR/CSD, KOUMAY, and SHERI*

12 107. Plaintiff re-alleges, adopts, and incorporates the preceding paragraphs as
13 if fully set forth herein.

14 108. Defendants COR/CSD, KOUMAY, and SHERI continually, repeatedly, and
15 unfairly refused to conduct a competent, fair, and objective investigation and evaluation of
16 Plaintiff's fitness to retain custody of Mileena. Each Defendant was responsible for failing to
17 give Plaintiff's testimony and evidence proper weight in considering his ability to care for his
18 daughter. In multiple instances described in this Complaint, these Defendants simply failed to
19 communicate with or cooperate with Plaintiff.

20 109. It is Plaintiff's belief that these Defendants simply gave greater deference to Maria
21 over Plaintiff because of Plaintiff's gender (male) as opposed to Maria's (female). As a result of
22 Defendants' discrimination, Defendants' actions deprived Plaintiff of his due process rights under
23 the 5th and 14th Amendments and in violation of 4th Amendment rights against unreasonable
24 searches and seizures.

25 110. Plaintiff contends that these Defendants took these actions, acting under color of
26 law without reasonable probable cause and with deliberate indifference to Plaintiff's
27 constitutional rights.

111. The individual and municipal Defendants' wrongful conduct as herein alleged was intentionally done with malice and with conscious disregard for the rights of Plaintiff. As a result of their despicable conduct, Plaintiff is therefore entitled to recover punitive damages from the individual Defendants' wrongful acts for the purposes of punishing said Defendants.

EIGHTH CAUSE OF ACTION

Violation of Civil Rights Under 42 U.S.C. 1983- Monell Claim

Against Defendant COR/CSD

112. Plaintiff re-alleges, adopts, and incorporates the preceding paragraphs as if fully set forth herein.

113. COR/CSD, established and/or followed policies, procedures, customs and/or practices (hereinafter referred to collectively as "policy" or "policies") which policies were the moving force behind the violations of Plaintiff's constitutional rights, including those under the First, Fourth and Fourteenth Amendments, by, but not limited to:

- a. the policy of detaining and/or removing children from their family and homes without exigent circumstances (imminent danger of serious bodily injury), court order and/or consent;
- b. the policy of removing children from the care of their family and from their homes without first obtaining a warrant when no exigency exists;
- c. the policy of removing and/or detaining children from their parent(s) during dependency proceedings without any basis or reasonable cause;
- d. the policy of examining children without exigency, need, or proper court order and without the presence of their proper custodian and/or guardian; the policy of removing and detaining children and not returning them, beyond a reasonable period after the basis for detention has been negated;
- e. the policy of using trickery, duress, fabrication and/or false testimony or

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evidence and in failing to disclose exculpatory evidence, in preparing and presenting reports and court documents to the court causing an interference with Plaintiff's rights, including those as to familial relations and injuring and harming them; and

- f. by acting with deliberate indifference to implementing a policy of inadequate training and/or by failing to train its officers, agents, employees and state actors, in providing the Constitutional protections guaranteed to individuals, including those under the First, Fourth and Fourteenth Amendments, when performing actions related to child abuse and dependency type proceedings;
- g. a policy authorizing and or ratifying without threat of discipline or reprimand, the repeated removal of children from their parents or guardians without a warrant, consent, or imminent risk of serious bodily injury to a children] such that would justify or make lawful the removal of the child;
- h. a policy authorizing or ratifying without threat of discipline or reprimand, the inclusion of false statements, half-truths and misrepresentations in reports given to the juvenile dependency court, as well as the intentional failure to include information which is exculpatory to the proposition that detention of the children is necessary for their protection;
- i. a policy authorizing or ratifying without threat of discipline or reprimand, the inclusion of allegations denoted in the Welfare & Institutions Code by alpha's "a" through "m," that are of a more severe substantive nature in terms of potential consequences to the continuation of the parent-child relationship, so that parents will be compelled to agree to lesser allegations with lesser consequences to the continuation of the parent-child relationship rather than contest the necessity of juvenile dependency court jurisdiction and the continued involvement of COR/CSD in Plaintiff's life.

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(This list is not exhaustive due to the pending nature of discovery and the protected records of investigative and juvenile dependency type proceedings.)

114. COR/CSD owed a duty to Plaintiff at all times to establish, implement and follow policies, procedures, customs and/or practices which confirm and provide for the protections guaranteed them under the United States Constitution, including the 1st, 4th, and 14th Amendments; to use reasonable care to select, supervise, train, control and review the activities of all of their agents, officers, employees.

115. COR/CSD breached its duties and obligations to Plaintiff by, but not limited to, failing to establish, implement and follow the correct and proper Constitutional policies, procedures, customs and practices; by failing to properly select, supervise, train, control and review their agents and employees as to their compliance with Constitutional safeguards; and by permitting the individual social worker defendants, including KOUMAY and SHERI, and DOES 1 through 10, inclusive, to engage in the unlawful and unconstitutional conduct as herein alleged. Plaintiff is informed and believes and thereon alleges, that the COR/CSD has no training, or inadequate training, on:

- a. the scope, nature and importance of the 14th Amendment based rights of familial association, including not only the right to raise and care for one's child without unreasonable government interference;
- b. the nature, extent and duration of psychological and emotional damage caused to children and parents by the unlawful and/or unreasonable intervention of government actors acting under the guise of protecting children, including but not limited to;
 - i. the baseless, unreasonable, unlawful removal of children from their parents;
 - ii. the inclusion of false and misleading statements in juvenile, police, and/or juvenile court reports, as well as;

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- iii. failing to include exculpatory and/or mitigating information in juvenile dependency court reports, in an effort to portray the parents, child, and circumstances in a false light in order to influence a court to retain custody of children; and
- iv. the use of threats, intimidation and coercion to force parents to waive their rights, including threats of the removal of children and including unfavorable and false statements, as well as misrepresentation of facts (i.e. "half-truths") in reports submitted to juvenile dependency court judges for the purpose of insuring and continuing the separation of family members to their detriment and in violation of their rights under both state and federal law.
- v. the legislative reasoning behind protective custody warrants, the existence of protective custody warrants and the use of protective custody warrants pursuant to California law specifically and the use of warrants generally when considering the removal of children from their parents/caretakers that are not at imminent risk of serious bodily injury and - the existence and relevance of federal laws and precedent on the removal of children from their parents / guardians in the context of an investigation of a child abuse or neglect referral.

116. Plaintiff is informed and believes and thereon alleges that it is the policy, practice and/or custom of COR/CSD to set forth allegations in Juvenile Dependency Petitions against parents claiming violations of Welfare and Institutions Code § 300(b), regardless of whether or not there is reasonable and articulable evidence to support the claims stated and that the conduct alleged herein is not an isolated incident of which the COUNTY OF RIVERSIDE is unaware.

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117. COR/CSD knew, or should have known, that by breaching the aforesaid duties and obligations that it was foreseeable that it would cause Plaintiff to be injured and damaged by the wrongful acts and omissions as alleged herein, that such breaches occurred in contravention of public policy and as to their respective legal duties and obligations to Plaintiff.

118. COR/CSD also provided inadequate and/or non-existent training, including but not limited to: 1) non-existent and/or inadequate training on the 4th and 14th Amendments as same apply in the context of a child abuse investigation that may involve the removal of children from their parent(s); 2) the existence and/or use of protective custody warrants provided for under California law; 3) the emotional trauma and psychological damage to a child from removal; 4) the clearly established law of this federal circuit on the issues of warrantless removals, exigency, least intrusive means and the proper investigation before removal of a child; 5) state law applicable to juvenile dependency proceedings and the reunification of children with their parents and/or avoidance of removal entirely.

119. The aforementioned policies, practices, customs and procedures and lack of training and/or inadequate training and discipline as stated and shown above, were the moving force and/or substantial factor in bringing about the constitutional deprivations complained of by Plaintiff herein.

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DEMAND FOR TRIAL BY JURY

PLAINTIFF hereby demands a jury trial under Federal Rule of Civil Procedure 38 and Central District of California Rule 38-1.

Respectfully submitted,

DATED: May 28, 2015

LAW OFFICES OF VINCENT W. DAVIS & ASSOC.

/s/ Rovee Pruna
VINCENT W. DAVIS, ESQ.
ROVEE VANDERBILT PRUNA, ESQ.
ATTORNEY FOR PLAINTIFF